



February 15, 2008

ENGROSSED SENATE BILL No. 26

DIGEST OF SB 26 (Updated February 12, 2008 11:10 am - DI 107)

Citations Affected: IC 22-11; IC 32-31; IC 36-8.

Synopsis: Smoke detectors in rental properties. Makes it a Class B infraction if a landlord fails to: (1) properly install a smoke detector at the time a tenant moves in; or (2) repair an inoperative hard wired smoke detector within seven days of receiving notice of the need for repair. Increases the penalty to a Class A infraction for a subsequent offense. Provides that a landlord and a tenant may not waive the requirement that a smoke detector be installed in each rental unit. Requires a tenant to replace batteries as needed in a battery operated smoke detector and to provide written notice of any malfunctions of a hard wired smoke detector to the landlord. Permits a fire department to inspect a private dwelling upon the request of the owner or primary lessee who resides in the dwelling.

Effective: July 1, 2008.

Jackman, Steele, Tallian

(HOUSE SPONSORS — LAWSON L, KNOLLMAN)

January 8, 2008, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

January 24, 2008, amended, reported favorably — Do Pass.

January 28, 2008, read second time, ordered engrossed.

January 29, 2008, engrossed. Read third time, passed. Yeas 41, nays 7.

HOUSE ACTION

February 4, 2008, read first time and referred to Committee on Judiciary.

February 14, 2008, reported — Do Pass.

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ES 26—LS 6027/DI 103+



February 15, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 26

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-11-18-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this
3 chapter:

4 **"Bodily injury" has the meaning set forth in IC 35-41-1-4.**

5 "Dwelling" means a residence with at least one (1) dwelling unit as
6 set forth in IC 22-12-1-4(a)(1)(B) and IC 22-12-1-5(a)(1).

7 "Hotels and motels" means buildings or structures kept, maintained,
8 used, advertised, or held out to the public as inns or places where
9 sleeping accommodations are furnished for hire for transient guests.

10 **"Landlord" has the meaning set forth in IC 32-31-3-3.**

11 "Owner" means a person having control or custody of any building
12 covered by this chapter.

13 "Person" means an individual, corporation, partnership, association,
14 or other legal entity.

15 **"Rental premises" has the meaning set forth in IC 32-31-7-3.**

16 **"Rental unit" has the meaning set forth in IC 32-31-3-8.**

17 "Smoke detector" means a device which senses visible or invisible

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particles of combustion and conforms to the minimum standards for type, components, and maintenance prescribed by the National Fire Protection Association.

"Seasonally occupied dwellings" means hotels and motels open to the public for occupancy by guests only during any period of time between April 15 and October 15 each year.

"Single level dwellings" means all single level (no more than one (1) level above ground) hotels and motels that have no interior corridors, and whose individual rooms have exterior exits.

"Tenant" has the meaning set forth in IC 32-31-3-10.

SECTION 2. IC 22-11-18-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) An owner of a hotel or motel who violates this chapter commits a Class A infraction, except as provided by subsection (b).

(b) An owner of a hotel or motel commits a Class D felony if:

- (1) the owner knowingly or intentionally violates section 3 of this chapter; and
- (2) bodily injury (as defined in IC 35-41-1) or loss of life occurs as a result of a fire in the building.

(c) **Except as provided in section 5.5 of this chapter**, a person who violates section 3.5 of this chapter commits a Class D infraction.

SECTION 3. IC 22-11-18-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.5. A landlord who violates section 3.5 of this chapter:**

- (1) at the time the landlord delivers a rental unit to a tenant; or
- (2) if the smoke detector is hard wired into the rental unit's electrical system, by failing to repair or replace the inoperable smoke detector not later than seven (7) days after receiving written notice by certified mail, return receipt requested, of the need to repair or replace the inoperable smoke detector under section 3.5(e)(2) of this chapter;

commits a Class B infraction. However, the offense is a Class A infraction if the landlord has a prior violation for an offense under this section.

SECTION 4. IC 32-31-5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7. (a) At the time a landlord delivers a rental unit to a tenant, the landlord shall require the tenant to acknowledge in writing that the rental unit is equipped with a functional smoke detector.**

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(b) A landlord and a tenant may not waive, in a rental agreement or a separate writing, the requirements under IC 22-11-18-3.5 concerning smoke detectors.

SECTION 5. IC 32-31-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. A tenant shall do the following:

(1) Comply with all obligations imposed primarily on a tenant by applicable provisions of health and housing codes.

(2) Keep the areas of the rental premises occupied or used by the tenant reasonably clean.

(3) Use the following in a reasonable manner:

(A) Electrical systems.

(B) Plumbing.

(C) Sanitary systems.

(D) Heating, ventilating, and air conditioning systems.

(E) Elevators, if provided.

(F) Facilities and appliances of the rental premises.

(4) Refrain from defacing, damaging, destroying, impairing, or removing any part of the rental premises.

(5) Comply with all reasonable rules and regulations in existence at the time a rental agreement is entered into. A tenant shall also comply with amended rules and regulations as provided in the rental agreement.

(6) Ensure that each smoke detector installed in the tenant's rental unit remains functional and is not disabled. If the smoke detector is battery operated, the tenant shall replace batteries in the smoke detector as necessary. If the smoke detector is hard wired into the rental unit's electrical system, and the tenant believes that the smoke detector is not functional, the tenant shall provide notice to the landlord under IC 22-11-18-3.5(e)(2).

This section may not be construed to limit a landlord's obligations under this chapter or IC 32-31-8.

SECTION 6. IC 36-8-17-8, AS AMENDED BY P.L.1-2006, SECTION 579, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) A fire department serving an area that does not include a city may engage in an inspection program to promote compliance with fire safety laws. **Upon the request of an owner or a primary lessee who resides in a private dwelling, the fire department may inspect the interior of the private dwelling to determine compliance with IC 22-11-18-3.5.** The fire department shall maintain a written report for each inspection. These reports shall

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1 be made available to the division upon request.

2 (b) The fire department serving an area that includes a city shall
 3 inspect every place and public way within the jurisdiction of the city,
 4 except the interiors of private dwellings, for compliance with the fire
 5 safety laws. **Upon the request of an owner or a primary lessee who**
 6 **resides in a private dwelling, the fire department may inspect the**
 7 **interior of the private dwelling to determine compliance with**
 8 **IC 22-11-18-3.5.** Except as otherwise provided in the rules adopted by
 9 the commission, the fire chief of the fire department shall specify the
 10 schedule under which places and public ways are inspected and may
 11 exclude a class of places or public ways from inspection under this
 12 section, if the fire chief determines that the public interest will be
 13 served without inspection. The fire department shall maintain a written
 14 report for each inspection. The fire department shall submit monthly
 15 reports to the division, on forms prescribed by the division, containing
 16 the following information:

17 (1) The total number of inspections made.

18 (2) The total number of defects found, classified as required by
 19 the office.

20 (3) The total number of orders issued for correction of each class
 21 of defect.

22 (4) The total number of orders complied with.

23 (c) A volunteer fire department may carry out inspections under this
 24 section only through an individual who is certified under
 25 IC 22-14-2-6(c).

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 26, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 24, delete "(a)".

Page 2, line 28, after "(2)" insert **"if the smoke detector is hard wired into the rental unit's electrical system,"**.

Page 2, line 28, delete "a defective or an" and insert **"the"**.

Page 2, line 31, delete "defective or".

Page 2, line 34, delete "or conviction".

Page 2, delete lines 36 through 42.

Page 3, delete lines 1 through 16.

Page 3, line 19, after "7." insert **"(a)"**.

Page 3, between lines 22 and 23, begin a new paragraph and insert:

"(b) A landlord and a tenant may not waive, in a rental agreement or a separate writing, the requirements under IC 22-11-18-3.5 concerning smoke detectors."

Page 4, line 2, after "disabled." insert **"If the smoke detector is battery operated, the tenant shall replace batteries in the smoke detector as necessary. If the smoke detector is hard wired into the rental unit's electrical system, and the tenant believes that the smoke detector is not functional, the tenant shall provide notice to the landlord under IC 22-11-18-3.5(e)(2)."**

Page 4, delete lines 39 through 41.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 26 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 0.

 SENATE MOTION

Madam President: I move that Senator Steele be added as second author and Senator Tallian be added as coauthor of Engrossed Senate Bill 26.

JACKMAN

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 26, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LAWSON L, Chair

Committee Vote: yeas 11, nays 0.

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